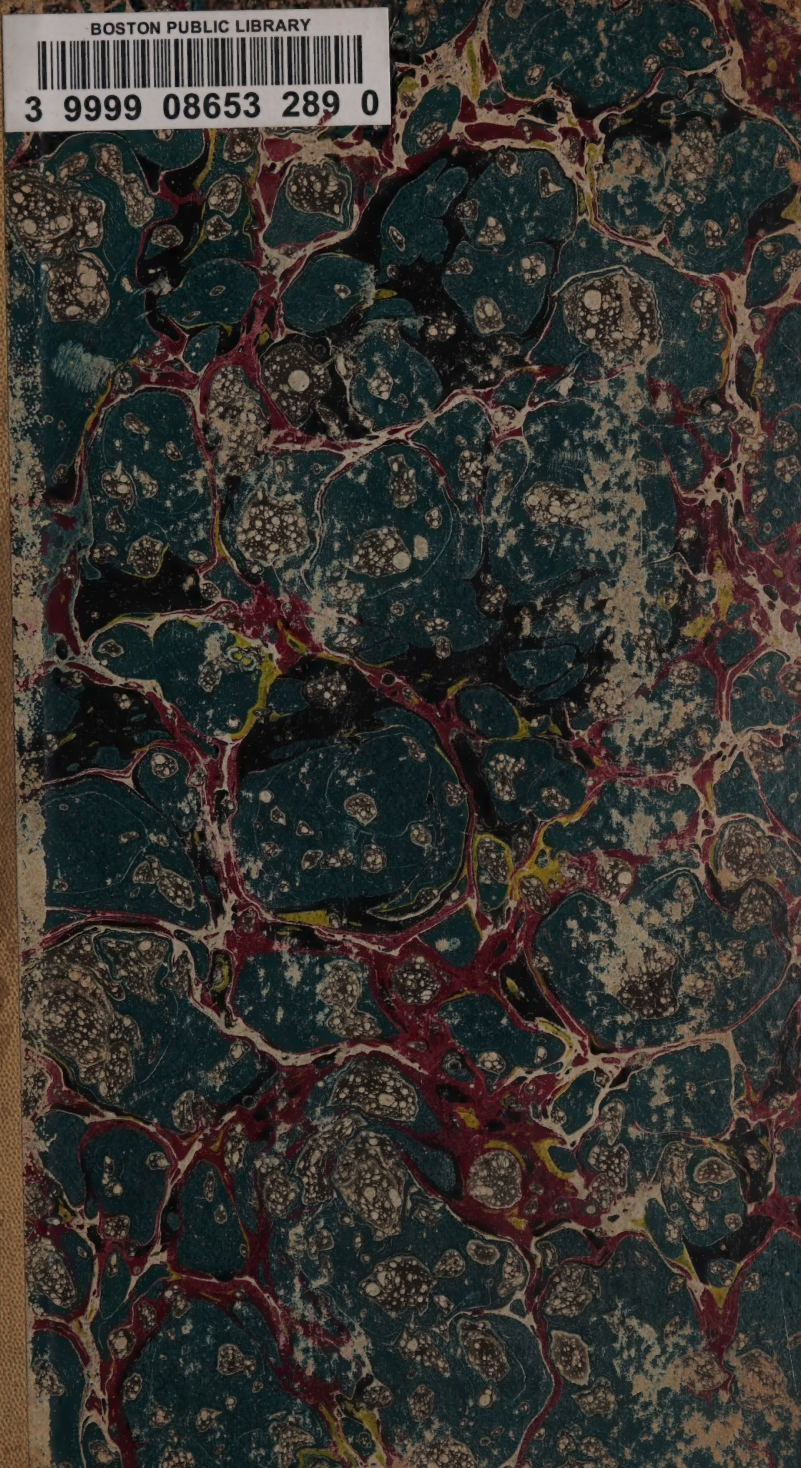


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THE PEACE CONVENTION

AS SUBMITTED BY THE INTERNATIONAL CON-
FERENCE AT THE HAGUE TO THE SIGNATORY
POWERS FOR THEIR ACCEPTANCE

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James M. Barnard,
Nov. 27, 1901.

THE PEACE CONVENTION,

AS SUBMITTED BY THE INTERNATIONAL CONFERENCE AT
THE HAGUE TO THE SIGNATORY POWERS FOR
THEIR ACCEPTANCE.

[Title III. in the following Convention was evidently studied in practice from the British and American proposals, principally from the American. Titles I. and II. are studied from proposals of other powers.]

The sovereigns or heads of state of the countries represented at the Conference,—

(Here follow the names.)

Animated with a strong desire to come to an agreement for the maintenance of general peace;

Resolved to promote with all their ability the friendly settlement of international disputes;

Recognizing the solidarity which unites the members of the society of the civilized nations;

Wishing to extend the empire of law and to strengthen the appreciation of international justice;

Convinced that the institution of a permanent court of arbitration accessible to all, in the midst of the independent powers, will prove efficacious in bringing about this result;

Considering the advantages of a regularly organized general arbitral procedure;

Believing, with the august initiator of the International Peace Conference, that it is expedient solemnly to establish, by international agreement, those principles of equity and

right "on which rest the security of States and the well-being of peoples";*

Desiring to conclude a convention to this effect,—have named as their plenipotentiaries, to wit:

(Here follow the names.)

Who, after having communicated to one another their full powers, found to be in due and proper form, have agreed upon the following Convention:—

TITLE I. THE MAINTENANCE OF GENERAL PEACE.†

ARTICLE 1. With the object of preventing, as far as possible, recourse to force in the relations between States, the signatory powers agree to employ all their efforts to bring about by pacific means the solution of international differences.

TITLE II. GOOD OFFICES AND MEDIATION.

ARTICLE 2. The signatory powers agree that in case of grave difference of opinion or conflict they will, before appealing to arms, have recourse, as far as circumstances permit, to the good offices or to the mediation of one or more friendly powers.

ARTICLE 3. Independently of this recourse, the signatory powers recommend that one or more powers not interested in the dispute should offer of their own accord to the disputing States, as far as circumstances permit, their good offices or mediation. The powers not interested in the dispute shall have the right to offer good offices or mediation even during the course of hostilities. The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

* These are the closing words of the Emperor's Rescript.

† These are the first words of the Rescript of the Emperor of Russia which summoned the conference.

ARTICLE 4. The part of the mediator shall consist in the conciliation of conflicting claims and in the appeasing of resentments which may have arisen between the disputing States.

ARTICLE 5. The functions of the mediator shall cease the moment when it is stated, either by one of the disputing parties or by the mediator himself, that the basis of a friendly understanding proposed by him is not accepted.

ARTICLE 6. Good offices and mediation, either upon the application of the disputing parties or upon the initiative of the powers not interested in the dispute, shall have exclusively an advisory character, and never have binding force.

ARTICLE 7. The acceptance of mediation shall not have the effect, in the absence of any agreement to the contrary, of interrupting, retarding, or hindering mobilization and other warlike preparations. If mediation should take place after the outbreak of hostilities, it shall not, in the absence of any agreement to the contrary, interrupt the course of military operations.

ARTICLE 8. The signatory powers agree to recommend the application, in circumstances which permit of it, of special mediation in the following form: In the case of grave disagreement endangering peace the disputing States should each choose one power to which to intrust the mission of entering into direct communication with the power chosen by the other side, for the purpose of preventing the rupture of pacific relations. During the continuance of their mandate, which, unless the contrary is stipulated, shall not last more than thirty days, the contending States shall cease from all direct communication in regard to the question in dispute, which shall be considered as referred exclusively to the mediating powers. These must apply all their efforts to arranging the difference. In case of the

actual rupture of pacific relations, these powers remain charged with the common mission of taking advantage of every opportunity to re-establish peace.

TITLE III. INTERNATIONAL COMMISSIONS OF INQUIRY.

ARTICLE 9. In international disputes, involving neither national honor nor essential interests, and arising from a divergence of opinion on matters of fact, the signatory powers judge it advisable that the parties who may not have been able to agree by diplomatic means should institute, as far as circumstances permit, an international commission of inquiry charged with the duty of facilitating the solution of these disputes by clearing up all questions of fact by an impartial and conscientious examination.

ARTICLE 10. The international commissions of inquiry shall be constituted by a special convention between the parties in litigation. This convention shall specify the facts to be examined and the scope of the powers of the commissioners. It shall also regulate their procedure. The inquiry shall be made upon a hearing of the adverse parties. The procedure and the time allowed for the investigation, so far as they are not fixed by the convention providing for the inquiry, shall be determined by the commission itself.

ARTICLE 11. The international commissions of inquiry are formed, in the absence of an agreement to the contrary, in the manner pointed out in Article 32 of the present Convention.

ARTICLE 12. The powers in controversy agree to furnish to the international commission, to the largest extent which they deem possible, all the means and all the necessary facilities for completely ascertaining and accurately determining the facts in question.

ARTICLE 13. The international commission of inquiry shall present to the powers in controversy its report, signed by all the members of the commission.

ARTICLE 14. The report of the international commission of inquiry is limited to the determination of the facts, and has nothing of the character of an arbitral sentence. It leaves the powers in controversy entire freedom as to what effect should be given to its determination.

TITLE IV. INTERNATIONAL ARBITRATION.

Chapter I. Arbitral Justice.

ARTICLE 15. International arbitration has for its object the settlement of disputes between nations by judges of their own choice, and on the basis of respect for right.

ARTICLE 16. In questions of legal nature, and especially in questions of the interpretation or application of international treaties, arbitration is recognized by the signatory powers as the most efficacious and, at the same time, the most equitable means of deciding controversies which have not been settled by diplomatic methods.

ARTICLE 17. The arbitration convention is concluded for disputes already in existence or for disputes which may subsequently arise. It may deal with every sort of dispute, or be limited solely to disputes of a specified category.

ARTICLE 18. The arbitration convention involves an engagement to submit in good faith to the arbitral sentence.

ARTICLE 19. Independently of general or particular treaties, which bind the signatory powers to have recourse to arbitration, these powers reserve the right to conclude, either before the ratification of the present Act or afterwards, new agreements, general or particular, with a view

to extending obligatory arbitration to all the cases to which they shall deem it applicable.

Chapter II. The Permanent Court of Arbitration.

ARTICLE 20. With the object of facilitating immediate recourse to arbitration for international differences which have not been settled by diplomacy, the signatory powers agree to organize a permanent court of arbitration accessible at all times, and exercising its functions, in the absence of an agreement to the contrary by the parties, in conformity with the rules of procedure laid down in the present Convention.

ARTICLE 21. The permanent court shall be competent to deal with all cases of arbitration unless the parties agree to institute a special arbitration.

ARTICLE 22. An international bureau shall be established at The Hague, and shall serve as the record office for the court. It shall be the intermediary of all communications relating to the sittings of the court. It shall have charge of the archives, and manage all administrative business. The signatory powers agree to communicate to the international bureau at The Hague a certified copy of every agreement to arbitrate made between them, and of every arbitral judgment concerning them, rendered by special tribunals. They also agree to communicate to the bureau the laws, rules, and documents declaring the execution of the judgments rendered by the court.

ARTICLE 23. Each signatory power shall designate, in the three months following the ratification of the present act, at the most, four persons, recognized as competent in dealing with questions of international law, and as of the highest moral reputation, and who are ready to accept the office of arbitrators. The persons thus nominated shall be

entitled members of the court, and their names entered upon a list which it shall be the duty of the bureau to communicate to all the signatory powers. The bureau shall also report to the signatory powers every modification in the list of arbitrators. Two or more powers may agree to designate in common one or more members. The same person may be nominated by different powers. Members of the court shall be appointed for a term of six years, and they shall be eligible for reappointment. In case of the death or retirement of a member of the court the vacancy shall be filled in the same way in which the original appointment was made.

ARTICLE 24. When the signatory powers shall desire to appeal to the court for the settlement of a difference arising between them, the choice of arbitrators selected to form the tribunal which shall deal with the dispute shall be made from the general list of members of the court. Unless the arbitral tribunal shall be constituted by special agreement of the parties, it shall be formed in the following way: Each party shall choose two arbitrators, and these shall choose an umpire. In case they disagree, the choice of the umpire shall be intrusted to a third power, designated by agreement of the parties. If they fail to agree, each party shall designate a different power, and the choice of the umpire shall be made by the united action of the powers thus designated. The tribunal being thus composed, the parties shall notify the bureau of their decision to bring their case before the court and of the names of the arbitrators. The arbitral tribunal shall meet at the time fixed by the parties. The members of the court, in the exercise of their functions and outside of their own country, shall enjoy diplomatic privileges and immunities.

ARTICLE 25. The tribunal shall usually sit at The Hague. Except under urgent circumstances the place of meeting cannot be changed by the tribunal except with the consent of the disputing parties.

ARTICLE 26. The international bureau at The Hague is authorized to put its offices and its staff at the disposal of the signatory powers for the performance of the duties of every special arbitral tribunal. The jurisdiction of the permanent court may be extended, under the conditions prescribed by its rules, to the disputes existing between non-signatory powers or between signatory and non-signatory powers, if the parties agree to have recourse to its jurisdiction.

ARTICLE 27. The signatory powers shall consider it their duty, in a case where an acute conflict threatens to break out between two or more of their number, to remind them that the permanent court is open to them. Consequently, they declare that the fact of reminding the parties in dispute of the provisions of the present Convention, and the advice given, in the highest interests of peace, to bring their dispute before the permanent court, can only be regarded as friendly actions.

ARTICLE 28. A permanent administrative council composed of the diplomatic representatives of the signatory powers accredited to The Hague and of the Minister of Foreign Affairs of the Netherlands, acting as president, shall be constituted in this town as soon as possible after the ratification of the present Convention by at least nine powers. This council shall be charged with the establishment and organization of the international bureau, which shall remain under its direction and control. It shall notify the powers of the constitution of the court, and see to its being duly installed. It shall draw up its own rules of order and all other necessary by-laws. It shall decide all administrative questions which may arise relating to the working of the court. It shall have absolute power as to the nomination, suspension, or dismissal of functionaries and employees of the bureau. It shall fix the payments and salaries, and shall control all the general expenditure. Five

members present at a meeting regularly called shall constitute a quorum for the transaction of business. The decisions shall be made by majority vote. The council shall report without delay to the signatory powers the rules adopted by it. It shall report to them each year upon the work of the court, the way in which the administrative service has been performed, and the expenses.

ARTICLE 29. The cost of the bureau shall be borne by the signatory powers in the proportion established for the International Bureau of the Postal Union.

Chapter III. Arbitral Procedure.

ARTICLE 30. For the purpose of promoting the development of arbitration the signatory powers have drawn up the following rules, which shall be applicable to the arbitral procedure, so far as the parties do not agree upon different rules.

ARTICLE 31. The powers which shall have recourse to arbitration shall sign a special act (*compromis*), in which is clearly set out the case to be decided, as well as the extent of the powers of the arbitrators. This act implies the engagement of the parties to submit in good faith to the judgment of the arbitral tribunal.

ARTICLE 32. The arbitral functions can be conferred upon a single arbitrator or upon several arbitrators named by the parties, as they please, or chosen by them from among the members of the permanent court of arbitration established by the present Act. Unless the tribunal is constituted by direct agreement of the parties, the formation of it shall be effected in the following manner: Each party shall name two arbitrators, and these together shall choose an umpire. In case of disagreement, the choice of the umpire shall be confided to a third power, named by mutual

agreement of the parties. If no agreement is arrived at on this subject, each party shall name a different power, and the choice of the umpire shall be made in concert by the powers thus named.

ARTICLE 33. When a sovereign or the head of a State is chosen arbitrator, the arbitral procedure shall be subject to his direction.

ARTICLE 34. The umpire shall be president *de jure* of the tribunal. When the tribunal does not include an umpire, it shall name its own president.

ARTICLE 35. In case of the death, resignation, or absence from any cause of one of the arbitrators, the vacancy shall be filled in accordance with the method of his appointment.

ARTICLE 36. The seat of the tribunal shall be designated by the parties. In the absence of any designation on their part, the tribunal shall sit at The Hague. The place selected can be changed by the tribunal only with the consent of the parties, except in case of urgent necessity.

ARTICLE 37. The parties have the right to appoint delegates or special agents who shall represent them before the tribunal, and act as intermediaries between the tribunal and the litigants. They may besides intrust the defence of their rights and interests before the tribunal to counsel or advocates named by them for this purpose.

ARTICLE 38. The tribunal shall decide what languages shall be used by it in its proceedings or employed before it.

ARTICLE 39. The arbitral procedure consists, as a general rule, of two phases: first, the examination of evidence; and, second, the hearing. The first consists of the communication made by the respective agents to the members

of the tribunal and to the opposing party, of all papers, printed or written, and of all documents containing the matters pleaded in the case. This communication shall take place according to the form and at the time fixed by the tribunal by virtue of Article 49. The second consists of the oral discussion of the matters presented by the parties before the tribunal.

ARTICLE 40. Every document produced by one party must be communicated to the other.

ARTICLE 41. The pleadings shall be directed by the president. They are public only when it is so decided by the tribunal with the consent of the parties. They shall be recorded in reports drawn up by secretaries named by the president. These reports shall constitute the only authentic record of the hearing.

ARTICLE 42. The taking of evidence being over, the tribunal shall have the right to exclude from the discussion any new papers or documents which one of the parties wishes to submit without consent of the other.

ARTICLE 43. The tribunal shall remain free to take into consideration new papers or documents to which the agents or counsel of the parties shall call their attention. In this case the tribunal shall have the right to require the production of these papers or documents, being obliged, however, to communicate them to the opposite side.

ARTICLE 44. The tribunal may, besides, require from the agents of the parties the production of all papers and demand all necessary explanations. In case of refusal the tribunal shall make note of the fact.

ARTICLE 45. The agents and the counsel for the parties are authorized to present orally to the tribunal everything that they deem useful in support of their cause.

ARTICLE 46. They shall have a right to raise objections and take exceptions. The decisions of the tribunal upon these points shall be final, and shall not give rise to any further discussion.

ARTICLE 47. The members of the tribunal shall have the right to put questions to the agents and the counsel of the parties, and to demand from them explanations upon doubtful points. Neither the questions asked nor the observations made by members of the tribunal during the course of the hearing shall be regarded as expressions of the opinion either of the tribunal in general or of its members in particular.

ARTICLE 48. The tribunal is authorized to determine its jurisdiction by interpreting the convention or other treaties which may be quoted in point, and by the application of the principles of international law.

ARTICLE 49. The tribunal shall have the right to make rules of procedure for the direction of the trial, to determine the forms and the time within which each party shall submit its motions, and to determine all the formalities regulating the admission of evidence.

ARTICLE 50. The agents and the counsel of the parties having presented all the information and briefs in support of their case, the president shall declare the hearing closed.

ARTICLE 51. The deliberations of the tribunal shall take place with closed doors. Every decision shall be made by a majority of the members of the tribunal. The refusal of any member to vote shall be stated in the official reports.

ARTICLE 52. The award made by a majority of votes shall be accompanied by a statement of the reasons upon which it is based. It must be drawn up in writing, and signed by each of the members of the tribunal. Those mem-

bers who are in the minority can, in signing, state their dissent.

ARTICLE 53. The award shall be read in a public sitting of the tribunal, the agents and counsel of the disputing parties being present or duly summoned.

ARTICLE 54. The award, duly pronounced and notified to the agents of the parties at variance, shall decide the dispute finally and without appeal.

ARTICLE 55. The parties can reserve in the *compromis* (convention) by their agreement the right to demand a revision of the award. In this case, and in the absence of any stipulation to the contrary, the demand shall be addressed to the tribunal which has pronounced the judgment; but it shall be based only on the discovery of a new fact of such a character as to exercise a decisive influence upon the judgment, and which at the moment of the judgment was unknown to the tribunal itself and to the party demanding the revision. The proceedings in revision can only be begun by decision of the tribunal, stating expressly the existence of the new fact, and recognizing that it possesses the character defined in the preceding paragraph, and declaring that the demand is admissible on that ground. The arbitral convention shall determine the time within which the demand for revision shall be made.

ARTICLE 56. The arbitral judgment shall be obligatory only for the parties which have concluded the convention. When it is a question of the interpretation of a convention entered into by other powers besides the parties in litigation, the parties to the dispute shall notify the other powers which have signed the convention of the agreement which they have concluded. Each one of these powers shall have the right to take part in the proceedings. If one or more among them avail themselves of this permission, the interpretation embodied in the judgment becomes obligatory upon them also.

ARTICLE 57. Each party shall bear its own expense and an equal part of the expense of the tribunal.

ARTICLE 58. The present Convention shall be ratified with as little delay as possible. The ratifications shall be deposited at The Hague. An official report of each ratification shall be made, a certified copy of which shall be sent through diplomatic channels to all the powers represented in the Peace Conference at The Hague.

ARTICLE 59. The powers which were represented at the International Peace Conference, but which have not signed this Convention, may become parties to it. For this purpose they shall make known to the contracting powers their adherence by means of a written notification addressed to the government of The Netherlands, and communicated by it to all the other contracting powers.

ARTICLE 60. The conditions under which the powers not represented in the International Peace Conference may become adherents to the present Convention shall be determined hereafter by agreement between the contracting powers.

ARTICLE 61. If one of the high contracting parties shall give notice of a determination to withdraw from the present Convention, this notification shall have its effect only after it has been made in writing to the government of The Netherlands, and communicated by it immediately to all the other contracting powers. This notification shall have no effect except for the power which has made it.

BEFORE signing this Convention, the American delegates presented to the Conference the following declaration, which was read by the President:—

"Nothing contained in this Convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in, the political questions or policy or internal administration of any foreign State; nor shall anything contained in the said Convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions."

Immediately after this the project was adopted by the assembly. The final act was signed by the delegates from all the powers represented at the Conference. These States are named in the alphabetical order of the French names of the powers, with the exception of Bulgaria, which follows Turkey. Thus the first name is *Allemagne* (Germany); the second is *Autriche-Hongrie* (Austria-Hungary); and so on. The United States appears as the *États-Unis d'Amérique*, and Mexico as the *États-Unis de Mexique*. Mr. White annexed to the signature of the American members the following proviso:—

"Under reserve of the declaration made at the plenary sitting of the Conference on the 23d of July, 1899."

In communicating this Convention to Lord Salisbury, Sir Julian Pauncefote and Sir Henry Howard said, after congratulating him upon the success of the Conference:—

"Before they had been at work a fortnight, a remarkable change came over the spirit of the Conference. It was discovered that with a little good will it would be possible to arrive at a common understanding on some of the questions propounded by the circular of Count Mouravieff, and which continue to agitate the civilized world. It is true that the question of disarmament, or even of the limitation of armaments and budgets, which was put to the forefront in the circular, presented so many difficulties from a practical point of view that it was necessarily abandoned for the present.

"But on all other points success was achieved; and in the

brief space of two months a great international work has been accomplished, fraught with the highest promise in the advancement of civilization and the good of mankind.

“That work consists in the production of three most important and beneficent codes, destined to preserve the blessings of peace and to lessen the calamity of war. . . .

“Its most striking and novel feature is the establishment of a Permanent Court of International Arbitration, which has so long been the dream of the advocates of peace, destined, apparently, until now never to be realized.”

This Convention has already been ratified by twenty of the signatory powers. The Convention itself requires that it shall be ratified “as soon as possible.”

IN the President’s annual Message, Mr. McKinley uses the following expressions:—

“In response to the invitation of his Majesty the Emperor of Russia, delegates from twenty-six countries were assembled at The Hague on the 18th of May, as members of a conference in the interest of peace.

“The occasion seemed to be opportune for the serious consideration of a plan for the pacific adjustment of international differences,—a subject in which the American people have been deeply interested for many years,—and a definite project for a permanent international tribunal was included in the instructions to the delegates of the United States.

“The final act of the Conference includes conventions upon the amelioration of the laws and customs of war on land, the adaptation to maritime warfare of the principles of the Geneva Convention of 1864, and the extension of judicial methods to international cases.

“The Convention for the pacific settlement of interna-

tional conflicts embodies the leading features of the American plan, with such modifications as were rendered necessary by the great diversity of views and interests represented by the delegates. The four titles of the Convention provide for the maintenance of general peace, the exercise of good offices and mediation, the formation of commissions of inquiry, and international arbitration.

“The mediation provided for by the Convention is purely voluntary and advisory, and is intended to avoid any invasion or limitation of the sovereign rights of the adhering States. The commissions of inquiry proposed consist of delegations to be specifically constituted for particular purposes by means of conventions between the contesting parties, having for their object the clear understanding of international differences before resorting to the use of force.

“The provision for arbitration contemplates the formation of a permanent tribunal, before which disputed cases may be brought for settlement by the mutual consent of the litigants in each separate case. The advantages of such a permanent tribunal over impromptu commissions of arbitration are conceived to be the actual existence of a competent court prepared to administer justice, the greater economy resulting from a well-devised system, and the accumulated judicial skill and experience which such a tribunal would soon possess.

“While earnestly promoting the idea of establishing a permanent international tribunal, the delegation of the United States was not unmindful of the inconveniences which might arise from an obtrusive exercise of mediation, and in signing the Convention carefully guarded the historic position of the United States by the following declaration : —

“‘Nothing contained in this Convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in, the political questions or policy or internal administration of any foreign State; nor shall

anything contained in the said Convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions.'

"Thus interpreted, the Convention for the pacific settlement of international conflicts may be regarded as realizing the earnest desire of great numbers of American citizens, whose deep sense of justice, expressed in numerous resolutions and memorials, has urged them to labor for this noble achievement. The general character of this Convention, already signed by the delegates of more than twenty sovereign States, further commends it to the favorable action of the Senate of the United States, whose ratification it still awaits."

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